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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200970
Party	Plaintiff Ugglebo Clogs LLC
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Attachments	Motion to Consolidate Opp.pdf (4 pages)(177128 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Ugglebo Clogs, LLC.,	:	
Opposer,	:	Opposition No. 91200970
v.	:	
Deckers Outdoor Corporation,	:	
<u>Applicant.</u>	:	

**JOINT MOTION TO CONSOLIDATE OR, IN THE ALTERNATIVE, MOTION TO
SUSPEND PROCEEDINGS PENDING FEDERAL LITIGATION**

The parties to this Opposition hereby jointly file this Motion to Consolidate Opposition No. 91200970 ("Opposition Proceeding") with Cancellation 92053594 ("Cancellation Proceeding") pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and TBMP Sec. 511, or in the alternative suspend these proceedings pursuant to 37 C.F.R. 2.117(a) and TBMP Sec. 510. Counsel for Applicant has agreed to the filing of this motion by emails with Applicant's counsel dated August 15 and 16 and has asked Applicant to file it as she is on vacation.

As detailed below, the Opposition Proceeding and the Cancellation Proceeding involve common questions of law and fact, and consolidation will save the parties and the Board unnecessary costs and delay. Moreover, because discovery has not yet begun in either of these matters, this is the appropriate time to enter and grant this motion. The issues involved in the Opposition Proceeding are identical to the issues in the already pending Cancellation Proceeding.

In accordance with the necessary elements for consolidating two or more opposition or cancellation proceedings, it is clear that the two proceedings

involve common questions of law and fact. First, this Opposition Proceeding involves the same Opposer and Applicant. Second, the marks at issue in both proceedings are the same: UGG.

Opposer states in each proceeding its claim that Applicant's use of the term "UGG" for goods and services related to footwear or footwear products in these marks creates a likelihood of confusion with Opposer's "UGGLEBO" registered mark covering "clogs." Thus, each proceeding involves common questions of law as to Opposer's prior rights in its "UGGLEGO" mark and whether Applicant's own "UGG" marks are likely to cause confusion as to the source, sponsorship or affiliation.

Given the common parties, facts and legal issues raised in Opposition No. 91200970 and Cancellation 92053594, the parties and the Board will save significant time, effort and expense if these proceedings are consolidated. Both initial disclosures and later discovery should focus on the same information and documents, such that keeping these cases separate would require tremendous duplication of effort.

If for some reason the Board has a procedural issue with consolidating an Opposition with a Petition to Cancel, then the Parties merely ask that this Opposition Proceeding be suspended pending the resolution of Civil Action in the United States District Court for the District of Minnesota, Ugglebo Clogs LLC v. Deckers Outdoor Corporation, No. 11-cv-213 ("the civil action"). It is understood that any determination made in the civil action would bear upon this Notice of

Opposition. It is noted that the Cancellation Proceedings are already suspended pending this Civil Action.

For the reasons set forth above, Opposer respectfully requests that the Board consolidate Opposition No. 91200970 and Cancellation 92053594 and continue the suspension pending disposition of civil litigation that is currently standing for Cancellation 92053594.

Respectfully submitted,

BELLES KATZ LLC

_____/Andrew B. Katz/_____
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ATTORNEY FOR UGGLEBO CLOGS, LLC

Dated: August 18, 2011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August, 2011 a true and correct copy of the foregoing MOTION TO CONSOLIDATE OR IN THE ALTERNATIVE MOTION TO SUSPEND PROCEEDINGS PENDING FEDERAL LITIGATION was sent by email as consented to by on the following:

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